



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JRE
Docket No: 5184-99
28 April 2000

[REDACTED]

Dear [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 13 April 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinion furnished by the Specialty Advisor for Ophthalmology dated 22 February 2000, a copy of which is attached, and your rebuttal thereto.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinion. The statement from Dr. Kratz of 8 July 1998 to the effect that there were conflicting studies on the effects of exercise on your condition, and that he felt you should avoid strenuous activities, was not considered probative of your contention that you were unfit for duty more than one year earlier when you were discharged from the Navy. His determination that you had normal visual fields in 1998 supports the conclusion that your condition was not unfitting in 1997. The fact that you were not eligible for reenlistment because of high year tenure constraints has no bearing on the determination that you were fit for duty on the date of your discharge.

In view of the foregoing, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new

and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosure

February 22, 2000

From: Specialty Leader for Ophthalmology
To: Chairman, Board for Correction of Naval Records

Subj: APPLICATION FOR CORRECTION OF THE NAVAL RECORDS ICO
FORMER [REDACTED], COMMENTS
REGARDING

Ref: (a) Your letter of 9 February 2000
(b) United States Code, Title 10, Subtitle A, Part II, Chapter 61, Section 1201

Encl: (1) BCNR File
(2) Service Record
(3) VA Records

1. Per reference (a), I have reviewed enclosures (1) – (3).
2. The former service member was diagnosed as having pigment dispersion syndrome and pigmentary glaucoma in December 1996 at Tripler AMC. He had two visual field tests performed (12/2/96 and 12/16/96), which used automated perimetry technology. Both tests were interpreted as 'normal'. In my review of those tests, I concur with the interpretation of 'normal,' although the test performed on 12/2/96 (Humphrey 30-2) could be interpreted as having nonspecific minor abnormalities in the right eye. He underwent a laser procedure in each eye (peripheral iridectomy) and was begun on medical treatment (eye drops) to lower the intraocular pressure to an acceptable range, which was successful. This stabilized his glaucoma at that time. If he had desired to remain on active duty at that time, there would have been no contraindications for retention and referral to the Physical Evaluation Board (PEB) would not have been warranted. Instead, he would have been advised to continue outpatient ophthalmologic follow-up at periodic intervals to monitor the status of his disease. If at a later point in time progression of the disease was subsequently documented while he was on active duty, and if this progression affected the ability for him to perform the duties of his rate, then referral to the PEB would have been appropriate. However, as of January 1997 (when he separated from active duty) there was no indication for referral to the PEB.
3. Following his separation from active duty, he was given a 10 percent disability rating by the Veterans Administration (VA). He was followed by a civilian ophthalmologist for his glaucoma. A visual field test in September 1998 (Humphrey 30-2) demonstrates that in comparison to the same testing methodology performed in December 1996, there was marked worsening of the visual fields. In particular, there was marked damage (contraction) of the nasal portion of the field of vision in each eye. As part of his appeal to the Veterans Administration for disability rating, he was referred to another ophthalmologist who performed a different type of visual field test (Goldmann perimetry), which is used by the VA to determine disability ratings based on the degree of concentric restriction of the peripheral vision. This test, performed in January 1999,

confirmed the nasal visual field loss in each eye, and was interpreted as demonstrating concentric restriction in the right eye to "47 degrees average" in the right eye and "31 degrees average" in the left eye. Based on this test result, the VA amended his disability rating from 10% to 30% for glaucoma, and back-dated it two years to January 8, 1997.

4. Based on the relatively normal Humphrey visual fields performed in December 1996, and the markedly abnormal Humphrey visual field performed in September 1998 (the latter correlating very well with the abnormalities detected on the Goldmann visual field of January 1999), it is highly probable that progression (i.e. worsening) of his glaucoma developed only after he separated from active duty. Moreover, also based on the pattern of visual field test results from 1996 to 1998, it is highly improbable that even if a Goldmann field had been performed in December of 1996 that there would have been evidence of field loss that justified a 30% disability rating by the VA. Therefore, the findings in enclosure (1) do not sway me into the opinion that a medical retirement was indicated back in December 1996 / January 1997 time frame. More specifically, I do not concur with the decision by the VA to back-date the 30% disability to January 1997. However, since there was no Goldmann visual field test performed in January 1997 (which should have been up to the VA to perform as part of their initial disability rating evaluation), the VA likely takes the position that in the absence of such test results they have to assume the worst - i.e. that there was visual field loss that may not have been detected on the Humphrey testing methodology. Therefore, I interpret the VA decision as giving the former service member the benefit of the doubt since it can't be definitively proven otherwise.

5. In summary, based on the issues addressed in the preceding paragraphs, it is my opinion that at the time of separation from active duty in Jan 1997, the glaucoma experienced by former [REDACTED] was not significant enough to render him unfit to perform the duties of his office, grade, rank or rating at that time. There was no valid indication to retain him at that time on active duty for purposes of disability evaluation. Please let me know if there are additional questions in this matter.

[REDACTED]

CAPT (s), MC, USN.